State of Utah
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Department of
Environmental Quality
William J. Sinclair
Acting Executive Director
DIVISION OF AIR QUALITY
Cheryl Heying
Director

10142

Document Date: 02/19/2009
DAQ-2009-011613

Title V Operating Permit

PERMIT NUMBER: 1100055002
DATE OF PERMIT: February 19, 2009
Date of Last Revision: February 19, 2009

This Operating Permit is issued to, and applies to the following:

Name of Permittee:
Stericycle Incorporated
28161 North Keith Drive
Lake Forest, IL 60045

Permitted Location:
Stericycle Incorporated
90 North 1100 West
North Salt Lake UT 84054

UTM coordinates: 420687 m Easting, 4521849 m Northing
SIC code: 4953 (Refuse Systems)

UTAH AIR QUALITY BOARD

By:

M. Cheryl Heying, Executive Secretary

Prepared By:

Robert Grandy

Document Date 2/19/2009
DAQ-2009-006433

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ENFORCEABLE DATES AND TIMELINES

The following dates or timeframes are referenced in Section I: General Provisions of this permit.

Annual Certification Due:	May 2, and on that date of every calendar year that this permit is in force.
Renewal application due:	August 19, 2013
Permit expiration date:	February 19, 2014
Definition of "prompt":	written notification within 7 days.

ABSTRACT

Stericycle, Inc. owns and operates an area source in North Salt Lake, Utah. The primary emission unit at the source is a hospital/medical/infectious waste incinerator (HMIWI) which is subject to R307-220-3 (State Plan for HMIWIs) and R307-222 (State Rule for HMIWIs). Both the State Plan and Rule require all HMIWIs to apply for and obtain a Title V permit. The HMIWI is equipped with a waste heat boiler, carbon injection, electrostatic precipitator (ESP), and wet gas absorber.

OPERATING PERMIT HISTORY

Permit/Activity	Date Issued	Recorded Changes
Title V renewal application (Project #OPP0101420004)	2/19/09	Changes: Renewal. -Table 3 of condition II.B.3.c.1(B)(a)(2) has been corrected. -The minimum scrubber liquor flow rate, has been changed from lbs/hr to gallons/minute (3-HRA). The error in expressing the liquor flow rate in lb/hr rather than gals/min. originated in the Title V permit itself. Neither the applicable EPA-approved state rule (R307-222 for HMIWIs), nor the current Approval Order, specifies the units of measurement for liquor flow rate.
Title V administrative amendment by DAQ (Project #OPP0101420002)	10/23/2003	To include an identification number for a newly issued AO. This is the result of a "replacement in kind" for the ESP and involves no changes in permit requirements.
Title V initial application (Project #OPP0101420001)	5/3/2002	

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Issued under authority of Utah Code Ann. Section 19-2-104 and 19-2-109.1, and in accordance with Utah Administrative Code R307-415 Operating Permit Requirements.

All definitions, terms and abbreviations used in this permit conform to those used in Utah Administrative Code R307-101 and R307-415 (Rules), and 40 Code of Federal Regulations (CFR), except as otherwise defined in this permit. Unless noted otherwise, references cited in the permit conditions refer to the Rules.

Where a permit condition in Section I, General Provisions, partially recites or summarizes an applicable rule, the full text of the applicable portion of the rule shall govern interpretations of the requirements of the rule. In the case of a conflict between the Rules and the permit terms and conditions of Section II, Special Provisions, the permit terms and conditions of Section II shall govern except as noted in Provision I.M, Permit Shield.

SECTION I: GENERAL PROVISIONS

I.A **Federal Enforcement.**

All terms and conditions in this permit, including those provisions designed to limit the potential to emit, are enforceable by the EPA and citizens under the Clean Air Act of 1990 (CAA) except those terms and conditions that are specifically designated as "State Requirements". (R307-415-6b)

I.B **Permitted Activity(ies).**

Except as provided in R307-415-7b(1), the permittee may not operate except in compliance with this permit. (See also Provision I.E, Application Shield)

I.C **Duty to Comply.**

I.C.1 The permittee must comply with all conditions of the operating permit. Any permit noncompliance constitutes a violation of the Air Conservation Act and is grounds for any of the following: enforcement action; permit termination; revocation and reissuance; modification; or denial of a permit renewal application. (R307-415-6a(6)(a))

I.C.2 It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. (R307-415-6a(6)(b))

I.C.3 The permittee shall furnish to the Executive Secretary, within a reasonable time, any information that the Executive Secretary may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. Upon request, the permittee shall also furnish to the Executive Secretary copies of records required to be kept by this permit or, for information claimed to be confidential, the permittee may furnish such records directly to the EPA along with a claim of confidentiality. (R307-415-6a(6)(e))

I.C.4 This permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance shall not stay any permit condition, except as provided under R307-415-7f(1) for minor permit modifications. (R307-415-6a(6)(c))

I.D **Permit Expiration and Renewal.**

I.D.1 This permit is issued for a fixed term of five years and expires on the date shown under "Enforceable Dates and Timelines" at the front of this permit. (R307-415-6a(2))

I.D.2 Application for renewal of this permit is due on or before the date shown under "Enforceable Dates and Timelines" at the front of this permit. An application may be submitted early for any reason. (R307-415-5a(1)(c))

I.D.3 An application for renewal submitted after the due date listed in I.D.2 above shall be accepted for processing, but shall not be considered a timely application and shall not relieve the permittee of any enforcement actions resulting from submitting a late application. (R307-415-5a(5))

I.D.4 Permit expiration terminates the permittee's right to operate unless a timely and complete renewal application is submitted consistent with R307-415-7b (see also Provision I.E, Application Shield) and R307-415-5a(1)(c) (see also Provision I.D.2). (R307-415-7c(2))

I.E **Application Shield.**

If the permittee submits a timely and complete application for renewal, the permittee's failure to have an operating permit will not be a violation of R307-415, until the Executive Secretary takes final action on the permit renewal application. In such case, the terms and conditions of this permit shall remain in force until permit renewal or denial. This protection shall cease to apply if, subsequent to the completeness determination required pursuant to R307-415-7a(3), and as required by R307-415-5a(2), the applicant fails to submit by the deadline specified in writing by the Executive Secretary any additional information identified as being needed to process the application. (R307-415-7b(2))

I.F **Severability.**

In the event of a challenge to any portion of this permit, or if any portion of this permit is held invalid, the remaining permit conditions remain valid and in force. (R307-415-6a(5))

I.G **Permit Fee.**

I.G.1 The permittee shall pay an annual emission fee to the Executive Secretary consistent with R307-415-9. (R307-415-6a(7))

I.G.2 The emission fee shall be due on October 1 of each calendar year or 45 days after the source receives notice of the amount of the fee, whichever is later. (R307-415-9(4)(a))

I.H **No Property Rights.**

This permit does not convey any property rights of any sort, or any exclusive privilege. (R307-415-6a(6)(d))

I.I **Revision Exception.**

No permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in this permit. (R307-415-6a(8))

I.J **Inspection and Entry.**

I.J.1 Upon presentation of credentials and other documents as may be required by law, the

permittee shall allow the Executive Secretary or an authorized representative to perform any of the following:

I.J.1.a Enter upon the permittee's premises where the source is located or emissions related activity is conducted, or where records are kept under the conditions of this permit. (R307-415-6c(2)(a))

I.J.1.b Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit. (R307-415-6c(2)(b))

I.J.1.c Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practice, or operation regulated or required under this permit. (R307-415-6c(2)(c))

I.J.1.d Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with this permit or applicable requirements. (R307-415-6c(2)(d))

I.J.2 Any claims of confidentiality made on the information obtained during an inspection shall be made pursuant to Utah Code Ann. Section 19-1-306. (R307-415-6c(2)(e))

I.K **Certification.**

Any application form, report, or compliance certification submitted pursuant to this permit shall contain certification as to its truth, accuracy, and completeness, by a responsible official as defined in R307-415-3. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. (R307-415-5d)

I.L **Compliance Certification.**

I.L.1 Permittee shall submit to the Executive Secretary an annual compliance certification, certifying compliance with the terms and conditions contained in this permit, including emission limitations, standards, or work practices. This certification shall be submitted no later than the date shown under "Enforceable Dates and Timelines" at the front of this permit, and that date each year following until this permit expires. The certification shall include all the following (permittee may cross-reference this permit or previous reports): (R307-415-6c(5))

I.L.1.a The identification of each term or condition of this permit that is the basis of the certification;

I.L.1.b The identification of the methods or other means used by the permittee for determining the compliance status with each term and condition during the certification period, and whether such methods or other means provide continuous or intermittent data. Such methods and other means shall include, at a minimum, the monitoring and related recordkeeping and reporting requirements in this permit. If necessary, the permittee also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;

I.L.1.c The status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the method or means designated in Provision I.L.1.b. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and

I.L.1.d Such other facts as the Executive Secretary may require to determine the compliance status.

I.L.2 The permittee shall also submit all compliance certifications to the EPA, Region VIII, at the following address or to such other address as may be required by the Executive Secretary: (R307-415-6c(5)(d))

Environmental Protection Agency, Region VIII
Office of Enforcement, Compliance and Environmental Justice
(mail code 8ENF)
1595 Wynkoop Street
Denver, CO 80202-1129

I.M **Permit Shield.**

I.M.1 Compliance with the provisions of this permit shall be deemed compliance with any applicable requirements as of the date of this permit, provided that:

I.M.1.a Such applicable requirements are included and are specifically identified in this permit, or (R307-415-6f(1)(a))

I.M.1.b Those requirements not applicable to the source are specifically identified and listed in this permit. (R307-415-6f(1)(b))

I.M.2 Nothing in this permit shall alter or affect any of the following:

I.M.2.a The emergency provisions of Utah Code Ann. Section 19-1-202 and Section 19-2-112, and the provisions of the CAA Section 303. (R307-415-6f(3)(a))

I.M.2.b The liability of the owner or operator of the source for any violation of applicable requirements under Utah Code Ann. Section 19-2-107(2)(g) and Section 19-2-110 prior to or at the time of issuance of this permit. (R307-415-6f(3)(b)

I.M.2.c The applicable requirements of the Acid Rain Program, consistent with the CAA Section 408(a). (R307-415-6f(3)(c))

I.M.2.d The ability of the Executive Secretary to obtain information from the source under Utah Code Ann. Section 19-2-120, and the ability of the EPA to obtain information from the source under the CAA Section 114. (R307-415-6f(3)(d))

I.N **Emergency Provision.**

I.N.1 An "emergency" is any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under this permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error. (R307-415-6g(1))

I.N.2 An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the affirmative defense is demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

I.N.2.a An emergency occurred and the permittee can identify the causes of the emergency. (R307-415-6g(3)(a))

I.N.2.b The permitted facility was at the time being properly operated. (R307-415-6g(3)(b))

I.N.2.c During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in this permit. (R307-415-6g(3)(c))

I.N.2.d The permittee submitted notice of the emergency to the Executive Secretary within two working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. This notice fulfills the requirement of Provision I.S.2.c below. (R307-415-6g(3)(d))

I.N.3 In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof. (R307-415-6g(4))

I.N.4 This emergency provision is in addition to any emergency or upset provision contained in any other section of this permit. (R307-415-6g(5))

I.O **Operational Flexibility.**

Operational flexibility is governed by R307-415-7d(1).

I.P **Off-permit Changes.**

Off-permit changes are governed by R307-415-7d(2).

I.Q **Administrative Permit Amendments.**

Administrative permit amendments are governed by R307-415-7e.

I.R **Permit Modifications.**

Permit modifications are governed by R307-415-7f.

I.S **Records and Reporting.**

I.S.1 Records.

I.S.1.a The records of all required monitoring data and support information shall be retained by the permittee for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records, all original strip-charts or appropriate recordings for continuous monitoring instrumentation, and copies of all reports required by this permit. (R307-415-6a(3)(b)(ii))

I.S.1.b For all monitoring requirements described in Section II, Special Provisions, the source shall record the following information, where applicable: (R307-415-6a(3)(b)(i))

I.S.1.b.1 The date, place as defined in this permit, and time of sampling or measurement.

I.S.1.b.2 The date analyses were performed.

I.S.1.b.3 The company or entity that performed the analyses.

I.S.1.b.4 The analytical techniques or methods used.

I.S.1.b.5 The results of such analyses.

I.S.1.b.6 The operating conditions as existing at the time of sampling or measurement.

I.S.1.c Additional record keeping requirements, if any, are described in Section II, Special Provisions.

I.S.2 Reports.

I.S.2.a Monitoring reports shall be submitted to the Executive Secretary every six months, or more frequently if specified in Section II. All instances of deviation from permit requirements shall be clearly identified in the reports. (R307-415-6a(3)(c)(i))

I.S.2.b All reports submitted pursuant to Provision I.S.2.a shall be certified by a responsible official in accordance with Provision I.K of this permit. (R307-415-6a(3)(c)(i)

I.S.2.c The Executive Secretary shall be notified promptly of any deviations from permit requirements including those attributable to upset conditions as defined in this permit, the probable cause of such deviations, and any corrective actions or preventative measures taken. Prompt, as used in this condition, shall be defined as written notification within the number of days shown under "Enforceable Dates and Timelines" at the front of this permit.. Deviations from permit requirements due to unavoidable breakdowns shall be reported in accordance with the provisions of R307-107. (R307-415-6a(3)(c)(ii))

I.S.3 Notification Addresses.

I.S.3.a All reports, notifications, or other submissions required by this permit to be submitted to the Executive Secretary are to be sent to the following address or to such other address as may be required by the Executive Secretary:

Utah Division of Air Quality
P.O. Box 144820
Salt Lake City, UT 84114-4820
Phone: 801-536-4000

I.S.3.b All reports, notifications or other submissions required by this permit to be submitted to the EPA should be sent to one of the following addresses or to such other address as may be required by the Executive Secretary:

For annual compliance certifications:

Environmental Protection Agency, Region VIII
Office of Enforcement, Compliance and Environmental Justice
(mail code 8ENF)
1595 Wynkoop Street
Denver, CO 80202-1129

For reports, notifications, or other correspondence related to permit modifications, applications, etc.:

Environmental Protection Agency, Region VIII
Office of Partnerships & Regulatory Assistance Air & Radiation Program (mail code 8P-AR)
1595 Wynkoop Street

Denver, CO 80202-1129
Phone: 303-312-6440

I.T **Reopening for Cause.**

I.T.1 A permit shall be reopened and revised under any of the following circumstances:

I.T.1.a New applicable requirements become applicable to the permittee and there is a remaining permit term of three or more years. No such reopening is required if the effective date of the requirement is later than the date on which this permit is due to expire, unless the terms and conditions of this permit have been extended pursuant to R307-415-7c(3), application shield. (R307-415-7g(1)(a))

I.T.1.b The Executive Secretary or EPA determines that this permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of this permit. (R307-415-7g(1)(c))

I.T.1.c EPA or the Executive Secretary determines that this permit must be revised or revoked to assure compliance with applicable requirements. (R307-415-7g(1)(d))

I.T.1.d Additional applicable requirements are to become effective before the renewal date of this permit and are in conflict with existing permit conditions. (R307-415-7g(1)(e))

I.T.2 Additional requirements, including excess emissions requirements, become applicable to a Title IV affected source under the Acid Rain Program. Upon approval by EPA, excess emissions offset plans shall be deemed to be incorporated into this permit. (R307-415-7g(1)(b))

I.T.3 Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of this permit for which cause to reopen exists. (R307-415-7g(2))

I.U **Inventory Requirements.**

An emission inventory shall be submitted in accordance with the procedures of R307-150, Emission Inventories. (R307-150)

I.V **Title IV and Other, More Stringent Requirements**

Where an applicable requirement is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, Acid Deposition Control, both provisions shall be incorporated into this permit. (R307-415-6a(1)(b))

SECTION II: SPECIAL PROVISIONS

II.A **Emission Unit(s) Permitted to Discharge Air Contaminants.**
(R307-415-4(3)(a) and R307-415-4(4))

II.A.1 **Permitted Source.**

II.A.2 **Sodium Bicarbonate Silo (designated as SBS)**
One sodium bicarbonate silo equipped with a fabric filter.

II.A.3 **Incinerator (designated as HMIWI)**
A two chamber, medical waste incinerator with natural gas-fired auxiliary burners, a bypass stack and a waste heat boiler. The incinerator design capacity is 2,500 lb/hr. The emission control system includes an evaporator, carbon injection, ESP, and wet gas absorber.

II.B.1 **Conditions on permitted source (Source-wide).**

II.B.1.a **Condition:**

The permittee shall comply with the applicable requirements for servicing of motor vehicle air conditioners pursuant to 40 CFR 82, Subpart B - Servicing of Motor Vehicle Air Conditioners. [Authority granted under 40 CFR 82.30(b); condition originated in 40 CFR 82].

II.B.1.a.1 **Monitoring:**

The permittee shall certify, in the annual compliance statement required in Section I of this permit, its compliance status with the requirements of 40 CFR 82, Subpart B.

II.B.1.a.2 **Recordkeeping:**

All records required in 40 CFR 82, Subpart B shall be maintained consistent with the requirements of Provision S.1 in Section I of this permit.

II.B.1.a.3 **Reporting:**

All reports required in 40 CFR 82, Subpart B shall be submitted as required. There are no additional reporting requirements except as outlined in Section I of this permit.

II.B.1.b **Condition:**

The permittee shall comply with the applicable requirements for recycling and emission reduction for class I and class II refrigerants pursuant to 40 CFR 82, Subpart F - Recycling and Emissions Reduction. [Authority granted under 40 CFR 82.150(b); condition originated in 40 CFR 82].

II.B.1.b.1 **Monitoring:**

The permittee shall certify, in the annual compliance statement required in Section I of this permit, its compliance status with the requirements of 40 CFR 82, Subpart F.

II.B.1.b.2 **Recordkeeping:**

All records required in 40 CFR 82, Subpart F shall be maintained consistent with the requirements of Provision S.1 in Section I of this permit.

II.B.1.b.3 **Reporting:**

All reports required in 40 CFR 82, Subpart F shall be submitted as required. There are no additional reporting requirements except as outlined in Section I of this permit.

II.B.2 **Conditions on Sodium Bicarbonate Silo (SBS).**

II.B.2.a **Condition:**

Visible emissions shall be no greater than 20 percent opacity. [Authority granted under R307-201-3; condition originated in R307-201-3].

II.B.2.a.1 **Monitoring:**

A visual observation of the silo shall be performed once during each filling operation by an individual trained on the observation procedures of 40 CFR 60, Appendix A, Method 9. The individual is not required to be a certified visible emissions observer (VEO). If any visible emissions are observed, filling operations shall be suspended and the dust control device as well as any associated ducting shall be inspected. Any conditions existing outside of normal operational parameters shall be corrected and filling activities may resume. Upon resumption of filling operations a 40 CFR 60, Appendix A, Method 9 opacity determination of the silo shall be performed by a certified observer.

II.B.2.a.2 **Recordkeeping:**

Records of each filling operation and results of monitoring shall be maintained as described in Provision I.S.1 of this permit.

II.B.2.a.3 **Reporting:**

There are no reporting requirements for this provision except those specified in Section I of this permit.

II.B.3 **Conditions on Incinerator (HMIWI).**

II.B.3.a **Condition:**

Operator training and qualification requirements.

(a) The permittee shall not allow the affected emission unit to operate at any time unless a fully trained and qualified HMIWI operator is accessible, either at the facility or available within 1 hour. The trained and qualified HMIWI operator may operate the HMIWI directly or be the direct supervisor of one or more HMIWI operators.

(b) Operator training and qualification shall be obtained by completing the requirements included in paragraphs (c) through (g) of this condition.

(c) Training shall be obtained by completing an HMIWI operator training course that includes, at a minimum, the following provisions:

1) 24 hours of training on the following subjects:

i. Environmental concerns, including pathogen destruction and types of emissions;

ii. Basic combustion principles, including products of combustion;

iii. Operation of the type of incinerator to be used by the operator, including proper startup, waste charging, and shutdown procedures;

iv. Combustion controls and monitoring;

v. Operation of air pollution control equipment and factors affecting performance;

vi. Methods to monitor pollutants (monitoring of HMIWI and air pollution control device operating parameters) and equipment calibration procedures (where applicable);

vii. Inspection and maintenance of the HMIWI and air pollution control devices;

viii. Actions to correct malfunctions or conditions that may lead to malfunction;

ix. Bottom and fly ash characteristics and handling procedures;

x. Applicable Federal, State, and local regulations, including those contained in 40 CFR 60 Subparts Ce, R307-222 and R307-220-3;

xi. Work safety procedures;

xii. Pre-startup inspections; and

xiii. Recordkeeping requirements.

2) An examination designed and administered by the instructor.

3) Reference material distributed to the attendees covering the course topics.

(d) Qualification shall be obtained by:

1) Completion of a training course that satisfies the criteria under paragraph (c) of this condition; and

2) Either 6 months experience as an HMIWI operator, 6 months experience as a direct supervisor of an HMIWI operator, or completion of at least two burn cycles under the observation of two qualified HMIWI operators.

(e) Qualification is valid from the date on which the examination is passed or the completion of the required experience, whichever is later.

(f) To maintain qualification, the trained and qualified HMIWI operator shall complete and pass an annual review or refresher course of at least 4 hours covering, at a minimum, the following:

1) Update of regulations;

2) Incinerator operation, including startup and shutdown procedures;

3) Inspection and maintenance;

4) Responses to malfunctions or conditions that may lead to malfunction; and

5) Discussion of operating problems encountered by attendees.

(g) A lapsed qualification shall be renewed by one of the following methods:

1) For a lapse of less than 3 years, the HMIWI operator shall complete and pass a standard annual refresher course described in paragraph (f) of this condition.

2) For a lapse of 3 years or more, the HMIWI operator shall complete and pass a training course with the minimum criteria described in paragraph (c) of this condition.

(h) The permittee shall maintain documentation at the facility that address the following:

1) Summary of the applicable requirements, including a copy of the State Plan for HMIWI (R307-220-3 and R307-222);

2) Description of basic combustion theory applicable to an HMIWI;

3) Procedures for receiving, handling, and charging waste;

4) HMIWI startup, shutdown, and malfunction procedures;

5) Procedures for maintaining proper combustion air supply levels;

6) Procedures for operating the HMIWI and associated air pollution control systems within the standards established under R307-220-3;

7) Procedures for responding to periodic malfunction or conditions that may lead to malfunction;

8) Procedures for monitoring HMIWI emissions;

9) Reporting and recordkeeping procedures; and

10) Procedures for handling ash.

(i) The permittee shall establish a program for reviewing the information listed in paragraph (h) of this condition annually with each HMIWI operator.

1) The initial review of the information listed in paragraph (h) of this condition shall be conducted by September 15, 1999, or prior to assumption of responsibilities affecting HMIWI operation, whichever date is later.

2) Subsequent reviews of the information listed in paragraph (h) of this condition shall be conducted annually.

(j) The information listed in paragraph (h) of this condition shall be kept in a readily accessible location for all HMIWI operators. This information, along with records of training shall be available for inspection by the Executive Secretary's representative upon request.

[Authority granted under Part D of HMIWI State Plan and 40 CFR 60.53c; condition originated in R307-220-3, R307-222].

II.B.3.a.1 **Monitoring:**

Records required for this permit condition will serve as monitoring.

II.B.3.a.2 **Recordkeeping:**

The permittee shall comply with the recordkeeping provisions of I.S.1 of this permit and the permittee shall maintain the following information for a period of at least 5 years:
(a) Calendar date of each record;

(b) Records showing the names of HMIWI operators who have completed review of the information in paragraph (h) of this condition as required by paragraph (i) of this condition, including the date of the initial review and all subsequent annual reviews;

(c) Records showing the names of the HMIWI operators who have completed the operator training requirements, including training materials sufficient to document compliance with paragraph (c) of this condition, documentation of training and the dates of the training;

(d) Records showing the names of the HMIWI operators who have met the criteria for qualification of this condition and the dates of their qualification;

All records shall be maintained onsite in either paper copy or computer-readable format, unless an alternative format is approved by the Executive Secretary.

II.B.3.a.3 **Reporting:**

There are no reporting requirements for this provision except those specified in Section I of this permit.

II.B.3.b **Condition:**

At all times, including periods of startup, shutdown, and malfunction, the permittee shall, to the extent practicable, maintain and operate any permitted plant equipment, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Executive Secretary which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source. [Authority granted under 40 CFR 60.11(d); condition originated in R307-220-3, R307-222].

II.B.3.b.1 **Monitoring:**

Records required for this permit condition will serve as monitoring.

II.B.3.b.2 **Recordkeeping:**

Permittee shall document activities performed to assure proper operation and maintenance. Records shall be maintained in accordance with Provision I.S.1 of this permit.

II.B.3.b.3 **Reporting:**

There are no reporting requirements for this provision except those specified in Section I of this permit.

II.B.3.c **Condition:**

Emission Limits
(a) The permittee shall not cause to be discharged into the atmosphere from the affected emission unit any gases that contain stack emissions in excess of the limits presented in Table 1.

(b) The permittee shall not cause to be discharged into the atmosphere from the stack of the affected emission unit any gases that exhibit greater than 10 percent opacity (6-minute block average).

(c) The permittee shall not cause to be discharged into the atmosphere visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) in excess of 5 percent of the observation period (i.e., 9 minutes per 3-hour period), as determined by EPA Reference Method 22, except as provided in paragraphs (d) and (e) of this condition.

(d) The emission limit specified in paragraph (c) of this condition does not cover visible emissions discharged inside buildings or enclosures of ash conveying systems; however, the emission limit does cover visible emissions discharged to the atmosphere from buildings or enclosures of ash conveying systems.

(e) The provisions specified in paragraph (c) of this condition do not apply during maintenance and repair of ash conveying systems. Maintenance and / or repair shall not exceed 10 operating days per calendar quarter unless the permittee obtains written approval from the Executive Secretary establishing a date whereby all necessary maintenance and repairs of ash conveying systems shall be completed.

1) Operating day means a 24-hour period between 12:00 midnight and the following midnight during which any amount of hospital waste or medical / infectious waste is combusted at any time in the HMIWI.

Table 1 Emission Limits

Pollutant	Units (7% Oxygen, dry basis)	Limit
Particulate matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot).	34 (0.015)
Carbon monoxide	Parts per million by volume	40
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)	125 (55) or 2.3 (1.0)
Hydrogen chloride	Parts per million by volume or percent reduction.	100 or 93%.
Sulfur dioxide	Parts per million by volume	55
Nitrogen oxides...	Parts per million by volume	250
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	1.2 (0.52) or 70%
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	0.16 (0.07) or 65%
Mercury (Hg)	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	0.55 (0.24) or 85%

(f) The emission limits of this condition apply at all times except during periods of startup, shutdown, or malfunction, provided that no hospital waste or medical / infectious waste is charged to the affected emission unit during startup, shutdown, or malfunction.

1) Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions. During periods of malfunction the operator shall operate within established parameters as much as possible, and monitoring of all applicable operating parameters shall continue until all waste has been combusted or until the malfunction ceases, whichever comes first.

2) Shutdown means the period of time after all waste has been combusted in the primary chamber. For continuous HMIWI, shutdown shall commence no less than 2 hours after the last charge to the incinerator.

3) Startup means the period of time between the activation of the system and the first charge to the unit. For batch HMIWI, startup means the period of time between activation of the system and ignition of the waste.

4) Hospital waste and medical / infectious waste have the meaning given in 40 CFR 60.51c.

[Authority granted under Part G of HMIWI State Plan, 40 CFR 60.33e, and 40 CFR 60.56c(a); Condition originated in R307-220-3, R307-222].

II.B.3.c.1 **Monitoring:**
The origin of all monitoring requirements is R307-220-3 and R307-222 unless otherwise specified.

A. Stack Testing

(a) Performance test methods are listed in paragraphs A.(a)(1) through A.(a)(14) of

monitoring. The use of the bypass stack during a performance test shall invalidate the performance test. Bypass stack means a device used for discharging combustion gases to avoid severe damage to the air pollution control device or other equipment.

1) All performance tests shall consist of a minimum of three test runs conducted under representative operating conditions.

2) The minimum sample time shall be 1 hour per test run unless otherwise indicated.

3) EPA Reference Method 1 of appendix A of 40 CFR Part 60 shall be used to select the sampling location and number of traverse points.

4) EPA Reference Method 3 or 3A of appendix A of 40 CFR Part 60 shall be used for gas composition analysis, including measurement of oxygen concentration. EPA Reference Method 3 or 3A of appendix A of 40 CFR Part 60 shall be used simultaneously with each reference method.

5) The pollutant concentrations shall be adjusted to 7 percent oxygen using the following equation:

C adj =C meas (20.9-7) / (20.9-%O 2) where:

C adj = pollutant concentration adjusted to 7 percent oxygen;

C meas = pollutant concentration measured on a dry basis;

(20.9-7)=20.9 percent oxygen-7 percent oxygen (defined oxygen correction basis);

20.9= oxygen concentration in air, percent; and

%O 2 = oxygen concentration measured on a dry basis, percent.

6) EPA Reference Method 5 or 29 of appendix A of 40 CFR Part 60 shall be used to measure the particulate matter emissions.

7) EPA Reference Method 9 of appendix A of 40 CFR Part 60 shall be used to measure stack opacity.

8) EPA Reference Method 10 or 10B of appendix A of 40 CFR Part 60 shall be used to measure the CO emissions.

9) EPA Reference Method 23 of appendix A of 40 CFR Part 60 shall be used to measure total dioxin / furan emissions. The minimum sample time shall be 3 hours per test run and the minimum sample volume shall be 2.5 dscm. If the affected emission unit has selected the toxic equivalency standards for dioxin / furans, the following procedures shall be used to determine compliance:

   i. Measure the concentration of each dioxin / furan tetra-through octa-congener emitted using EPA Reference Method 23

   ii. For each dioxin / furan congener measured in accordance with paragraph A.(a)(9)(i) of monitoring, multiply the congener

concentration by its corresponding toxic equivalency factor specified in Table 2.

iii. Sum the products calculated in accordance with paragraph A.(a)(9)(ii) of monitoring to obtain the total concentration of dioxins / furans emitted in terms of toxic equivalency.

10) EPA Reference Method 26 of appendix A of 40 CFR Part 60 shall be used to measure HCl emissions. If the permittee has selected the percentage reduction standards for HCl, the percentage reduction in HCl emissions (%R HCl) is computed using the following formula:

%R HCl = ((Ei - Eo)/Ei) times 100

Where:

%R HCl = percentage reduction of HCl emissions achieved;

Ei = HCl emission concentration measured at the control device inlet, corrected to 7 percent oxygen (dry basis); and

Eo = HCl emission concentration measured at the control device outlet, corrected to 7 percent oxygen (dry basis).

Table 2 Toxic Equivalency Factors

Dioxin/furan congener	Toxic equivalency factor
2,3,7,8-tetrachlorinated dibenzo-p-dioxin	1
1,2,3,7,8-pentachlorinated dibenzo-p-dioxin	0.5
1,2,3,4,7,8-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,7,8,9-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,6,7,8-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,4,6,7,8-heptachlorinated dibenzo-p-dioxin	0.01
Octachlorinated dibenzo-p-dioxin	0.001
2,3,7,8-tetrachlorinated dibenzofuran	0.1
2,3,4,7,8-pentachlorinated dibenzofuran	0.5
1,2,3,7,8-pentachlorinated dibenzofuran...	0.05
1,2,3,4,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,7,8,9-hexachlorinated dibenzofuran	0.1

2,3,4,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,4,6,7,8-heptachlorinated dibenzofuran	0.01
1,2,3,4,7,8,9-heptachlorinated dibenzofuran	0.01
Octachlorinated dibenzofuran	0.001

11) EPA Reference Method 29 of appendix A of 40 CFR Part 60 shall be used to measure Pb, Cd, and Hg emissions. If the permittee has selected the percentage reduction standards for metals, the percentage reduction in emissions ($\%R_{metal}$) is computed using the following formula:

$$\%R_{metal} = ((E_i - E_o)/E_i) \text{ times } 100$$

Where:

$\%R_{metal}$ = percentage reduction of metal emission (Pb, Cd, or Hg) achieved;

E_i = metal emission concentration (Pb, Cd, or Hg) measured at the control device inlet, corrected to 7 percent oxygen (dry basis); and

E_o = metal emission concentration (Pb, Cd, or Hg) measured at the control device outlet, corrected to 7 percent oxygen (dry basis).

12) The EPA Reference Method 22 of appendix A of 40 CFR Part 60 shall be used to determine compliance with the fugitive ash emission limit. The minimum observation time shall be a series of three 1-hour observations.

13) EPA Reference Method 6 or 6C of appendix A of 40 CFR Part 60 shall be used to measure SO_2 emissions. [R307-165-1, R307-165]

14) EPA Reference Methods 7, 7A, 7B, 7C, 7D, or 7E of appendix A of 40 CFR Part 60 shall be used to measure NO_x emissions. [R307-165-1, R307-165]

(b) The permittee shall:

1)Determine compliance with the opacity limit by conducting an annual performance test (no more than 12 months following the previous performance test) using the applicable procedures and test methods listed in paragraph A.(a) of monitoring.

2) Determine compliance with the PM, CO, and HCl emission limits by conducting an annual performance test (no more than 12 months following the previous performance test) using the applicable procedures and test methods listed in paragraph A.(a) of monitoring. If all three performance tests over a 3-year period indicate compliance with the emission limit for a pollutant (PM, CO, or HCl), the permittee may forego a performance test for that pollutant for the subsequent 2years. At a minimum, a performance test for PM, CO, and HCl shall be conducted every third year (no more than 36 months following the previous performance test). If a performance test conducted every third year indicates compliance with the emission limit for a pollutant (PM, CO, or HCl), the permittee may forego a performance test for that pollutant for an additional 2 years. If any performance test indicates noncompliance with the respective emission limit, a performance test for that pollutant shall be conducted annually until all annual performance tests over a 3-year period indicate compliance with the emission limit. The use of the bypass stack during a performance test shall invalidate the performance test.

3) Determine compliance with the visible emission limits for fugitive emissions from flyash / bottom ash storage and handling by conducting a performance test using EPA Reference Method 22 on an annual basis (no more than 12 months following the previous performance test).

4) The permittee shall conduct emission testing using the applicable test methods in paragraph A.(a) of monitoring for Dioxin/Furan, SO_2, NO_x, Pb, Cd, and Hg at least once every five years. [R307-165-1, R307-165]

(c) At least 30 days prior to conducting any emission testing, the permittee shall notify the Executive Secretary of the date, time and place of such testing and submit a test protocol. If determined necessary by the Executive Secretary, the permittee shall also attend a pretest conference. [R307-165-2, R307-165]

(d) All tests shall be conducted while the source is operating at the maximum production or combustion rate at which such source will be operated. During the tests, the source shall burn fuels or combustion of fuels, use raw materials, and maintain process conditions representative of normal operations, and shall operate under such other relevant conditions as the Executive Secretary shall specify. [R307-165-3, R307-165]

B. Operating Parameters

(a) The permittee shall:

1) Establish the maximum and minimum operating parameters, indicated in Table 3, as site specific operating parameters during the initial performance test to determine compliance with the emission limits; and

2) Ensure that the affected emission unit does not operate above any of the maximum operating parameters or below any of the minimum operating parameters listed in Table 3 and measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during performance tests. Operation above the established maximum or below the established minimum operating parameter(s) shall constitute a violation of established operating parameter(s).

i. Operation means the period during which waste is combusted in the incinerator excluding periods of startup or shutdown.

Table 3. Operating Parameters to be Monitored and Minimum Measurement and Recording Frequencies

Operating parameters	Minimum Frequency	
	Data Measurement	Data Recording
Maximum charge rate, lbs/hr (3-HRA)	Continuous	Once per hour
Minimum secondary chamber temperature, F (3-HRA)	Continuous	Once per minute
Maximum reactor inlet temperature, F (3-HRA)	Continuous	Once per minute
Minimum carbon injection, lbs/hr (3-HRA)	Hourly	Once per hour
Minimum scrubber liquor flow rate, gallons/minute (3-HRA)	Continuous	Once per minute
Minimum scrubber liquor pH (3-HRA)	Continuous	Once per minute

3-HRA = 3-hour rolling averages

Minimum scrubber liquor flow rate means 90 percent of the highest 3-hour average liquor flow rate at the inlet to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with all applicable emission limits.

(b) Except as provided in paragraph B.(c) of monitoring:

1) Operation of the affected emission unit above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the CO emission limit.

i. Maximum charge rate means 110 percent of the lowest 3-hour average charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limits.

ii. Minimum secondary chamber temperature means 90 percent of the highest 3-hour average secondary chamber temperature (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the PM, CO, or dioxin / furan emission limits. Secondary chamber means a component of the HMIWI that receives combustion gases from the primary chamber and in which the combustion process is completed. Primary chamber means the chamber in an HMIWI that receives waste material, in which the waste is ignited, and from which ash is removed.

2) Operation of the affected emission unit above the maximum reactor inlet temperature, above the maximum charge rate, and below the minimum dioxin/ furan carbon flow rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the dioxin / furan emission limit.

i. Maximum reactor inlet temperature means 110 percent of the lowest 3-hour average temperature at the inlet to the reactor (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the dioxin / furan emission limit.

ii. Minimum dioxin / furan carbon flow rate means 90 percent of the highest 3-hour average carbon flow rate (taken, at a minimum, once every hour) measured during the most recent performance test demonstrating compliance with the dioxin /furan emission limit.

3) Operation of the affected emission unit above the maximum charge rate and below the minimum scrubber liquor pH (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the HCl emission limit.

i. Minimum scrubber liquor pH means 90 percent of the highest 3-hour average liquor pH at the inlet to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the HCl emission limit.

4) Operation of the affected emission unit above the maximum charge rate and below the minimum Hg carbon flow rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the Hg emission limit.

i. Minimum Hg carbon flow rate means 90 percent of the highest 3-hour average carbon flow rate (taken, at a minimum, once every hour) measured during the most recent performance test demonstrating compliance with the Hg emission limit.

5) Use of the bypass stack (except during startup, shutdown, or malfunction) shall constitute a violation of the PM, dioxin / furan, HCl, Pb, Cd and Hg emission limits.

(c) The permittee may conduct a repeat performance test within 30 days of violation of applicable operating parameter(s) to demonstrate that the affected emission unit is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to this paragraph shall be conducted using the identical operating parameters that indicated a violation under paragraph B.(b) of monitoring.

(d) The permittee may conduct a repeat performance test at any time to establish new values for the operating parameters. The Executive Secretary may request a repeat performance test at any time.

(e) The permittee shall install, calibrate (to manufacturers' specifications), maintain, and operate devices (or establish methods) for monitoring the applicable maximum and minimum operating parameters listed in Table 3 such that these devices (or methods) measure and record values for these operating parameters at the frequencies indicated in Table 3 at all times except during periods of startup and shutdown.

(f) The permittee shall install, calibrate (to manufacturers' specifications), maintain, and operate a device or method for measuring the use of the bypass stack including date, time, and duration.

(g) The permittee shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter that the affected emission unit is combusting hospital waste and / or medical / infectious waste.

(h) All continuous monitoring systems or monitoring devices shall be installed such that representative measurements of emissions or process parameters from the affected facility are obtained. Additional procedures for location of continuous monitoring systems contained in the applicable Performance Specifications of appendix B of 40 CFR 60 shall be used. [40 CFR 60.13(f), R307-220-3].

II.B.3.c.2 **Recordkeeping:**

The origin of all record keeping requirements is R307-220-3 and R307-222 unless otherwise specified. The permittee shall comply with the recordkeeping provisions of I.S.1 of this permit and the permittee shall maintain the following information for a period of at least 5 years:

1) Calendar date of each record;

2) Records of the following data:

i. Concentrations of any pollutant listed in this condition;

ii. Results of fugitive emissions (by EPA Reference Method 22) tests;

iii. HMIWI charge dates, times, and weights and hourly charge rates;

iv. Reactor inlet temperatures during each minute of operation;

v. Amount and type of carbon used during each hour of operation;

vi. Secondary chamber temperatures recorded during each minute of operation;

vii. Liquor flow rate to the wet scrubber inlet during each minute of operation;

viii. pH at the inlet to the wet scrubber during each minute of operation; and

ix. Records indicating use of the bypass stack, including dates, times, and durations;

3) Identification of calendar days for which data on emission rates or operating parameters specified under paragraph (2) of record keeping have not been obtained, with an identification of the emission rates or operating parameters not measured, reasons for not obtaining the data, and a description of corrective actions taken;

4) Identification of calendar days, times and durations of malfunctions, a description of the malfunction and the corrective action taken;

5) Identification of calendar days for which data on emission rates or operating parameters specified under paragraph (2) of record keeping exceeded the applicable limits, with a description of the exceedances, reasons for such exceedances, and a description of corrective actions taken;

6) The results of the initial, annual, and any subsequent performance tests conducted to determine compliance with the emission limits and / or to establish operating parameters, as applicable;

7) Records of calibration of any monitoring devices as required under paragraphs B.(e) and (f) of monitoring; and

8) The permittee shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative. [40 CFR 60.7(b), R307-220-3]

All records shall be maintained onsite in either paper copy or computer-readable format, unless an alternative format is approved by the Executive Secretary.

II.B.3.c.3 **Reporting:**

The origin of all reporting requirements is R307-220-3 and R307-222 unless otherwise specified.

(a) A semi-annual report shall be submitted by September 14, 2002, and subsequent reports shall be submitted no more than 6 months following the previous report. The report shall include the information specified in (a)(1) through (a)(8) of reporting. All reports shall be signed by the facility's manager. Facilities manager means the individual in charge of purchasing, maintaining, and operating the HMIWI or the owner's or operator's representative responsible for the management of the HMIWI. Alternative titles may include director of facilities or vice president of support services.

1) The values for the site-specific operating parameters established pursuant to paragraph B.(a) of monitoring.

2) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded for the calendar year being reported, pursuant to paragraph B.(a) of monitoring.

3) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable for each operating parameter recorded pursuant to paragraph B.(a) of monitoring for the calendar year preceding the year being reported, in order to provide the Executive Secretary with a summary of the performance of the affected emission unit over a 2-year period.

4) Any information recorded under paragraphs (3) through (5) of record keeping for the calendar year being reported.

5) Any information recorded under paragraphs (3) through (5) of record keeping for the calendar year preceding the year being reported, in order to provide the Executive Secretary with a summary of the performance of the affected emission unit over a 2-year period.

6) If a performance test was conducted during the reporting period, the results of that test.

7) If no exceedances or malfunctions were reported under paragraphs (3) through (5) of record keeping for the calendar year being reported, a statement that no exceedances occurred during the reporting period.

8) Any use of the bypass stack, the duration, reason for malfunction, and corrective action taken.

(b) The permittee shall also comply with the reporting provisions of Section I of this permit.

II.C **Emissions Trading**
(R307-415-6a(10))

Not applicable to this source.

II.D **Alternative Operating Scenarios.**
(R307-415-6a(9))

Not applicable to this source.

SECTION III: PERMIT SHIELD

A permit shield was not granted for any specific requirements.

SECTION IV: ACID RAIN PROVISIONS

IV.A **This source is not subject to Title IV. This section is not applicable.**

REVIEWER COMMENTS

This operating permit incorporates all applicable requirements contained in the following documents:

Incorporates	DAQE-AN0142007-03 dated September 26, 2003

1. Conditions removed from the Title V permit: Stericycle is located in Davis County and the fugitive dust rule R307-309 does not apply in that area. For that reason, the fugitive dust control requirements based on that rule are being removed from the permit.

   R307-415-4(3)(b) states that for area sources: " The Executive Secretary shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the operating permit program."

   Salt and sand for roads, and emergency generators are not emissions units that cause the source to be subject to the operating permit program.

   As requested by the source, conditions associated with those activities have been removed from this Title V Permit (request received 6/19/08).
   [Last updated February 11, 2009]

2. Review of CAM Applicability: The state plan under which Stericycle operates as a HMIWI is the implementation of 40 CFR 60 Subpart Ce, a post 1990 New Source Performance Standard (NSPS). This exempts Stericycle from having to submit a CAM plan in accordance with 40 CFR Part 64.2(b)(i). [Last updated February 11, 2009]

3. R307-201: R307-201-1(2) does not apply to medical waste incinerators: R307-201-1(2) specifically exempts incinerators from visible emission limitations assigned pursuant to R307-201. The incinerator is subject to a visible emission limitation of 10% under the State Plan for medical waste incinerators. [Last updated February 11, 2009]

4. Alternative Monitoring Under Part H.2.(i) of the State Plan: In accordance with Part H.2.(i) of the State Plan for medical waste incinerators, the permittee of an affected facility using an air pollution control device other than a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and a wet scrubber to comply with the emission limits under Part G of the State Plan shall petition the Executive Secretary for other site-specific operating parameters to be established during the initial performance test and continuously monitored thereafter.

   Since Stericycle does not use one of the listed control devices, they filed a petition on January 4, 2002, for alternative monitoring. Their petition was granted on January 9, 2002, and includes the following monitoring parameters:

   *Maximum Charge Rate
   *Minimum Secondary Chamber Temperature
   *Maximum Reactor Inlet Temperature
   *Minimum dioxin/furan/Hg sorbent flow rate
   *Minimum scrubber liquor flow rate
   *Minimum scrubber liquor pH

   In addition, the monitoring provisions of Part H.(d, g, and h) have been modified to apply to the Stericycle system and included to document compliance with the emission limits.

5. R307-220-3 and R307-222 : Dioxin/Furan Sampling Time: Part H.2.(ix) of the Utah State Plan for Medical Waste Incinerators requires a minimum sample time for dioxin/furans of 4 hours per test run. At the request of the permittee and under the authority of 40 CFR 60.8(b), the minimum sample time has been revised to at least 3 hours with a minimum sample volume of 2.5 dscm. This revision is consistent the MACT standard for hazardous waste combustors under 40 CFR 63 Subpart EEE. Since the 40 CFR 63 Subpart EEE dioxin/furan standard is lower than the corresponding standard for under the State Plan for Medical Waste Incinerators, the reduced sample time coupled with the limit on sample volume will provide accurate measurements of dioxin/furan emissions at and below the Medical Waste Incinerator standard. The 3 hours sample time will also provide a representative sampling of stack emissions and corresponds with operating parameter limits which are established on a 3 hour rolling average. [Last updated February 11, 2009]

6. SO_2 and NO_x emissions testing: R307-220-3 and R307-222 establish emission limits for SO_2 and NO_x, however, no emission testing is required under these rules. As stated in EPA-453/R-97-006b, no SO_2 and NO_x emission testing is required because the emission limits in the final regulations reflect uncontrolled emissions. Consequently, the EPA indicated that it was unreasonable to impose SO_2 and NO_x monitoring requirements in a technology-based regulation where the facility operator has no control over the emissions and where the emission limit is not likely ever to be exceeded.

   SO_2 and NO_x emissions testing will be required at least once every 5 years per R307-165. Only an initial performance test for Dioxin/Furan, Pb, Cd, and Hg are required under R307-220-3 and R307-222. Therefore, as required by R307-165, emissions testing for these pollutants will also be required at least once every 5 years. [Last updated February 11, 2009]

7. R307-220-3 and R307-222: Waste Management Plan Not Required: Part E of the State Plan for medical waste incinerators requires each facility to prepare and submit a waste management plan to the Executive Secretary. The waste management plan is required for health care facilities which have an incinerator. Stericycle is not a health care facility and is not subject to the waste management plan requirements. [Last updated February 11, 2009]

8. Comment on an item originating in condition II.B.3.c.1B(a)(1).
   The initial performance testing cited in this condition has been completed and the initial numerical values for the operating parameters have been established as a result of that testing. Those numerical values are off-permit as allowed under the State Plan and Rules for HMIWI's.

9. Comment on an item originating in condition II.B.3.c.1(B)(a)(2): Table 3 of condition II.B.3.c.1(B)(a)(2) has been corrected. The minimum scrubber liquor flow rate has been changed from lbs/hr to gallons/minute (3-HRA). The error in expressing the liquor flow rate in lb/hr rather than gals/min. originated in the Title V permit itself. Neither the applicable EPA-approved state rule (R307-222 for HMIWIs), nor the current Approval Order, specifies the units of measurement for liquor flow rate.

May 4, 2009

The Honorable Carol Rushin
Acting Regional Administrator
United States Environmental Protection Agency
80-EISC
1595 Wynkoop Street
Denver, CO 80202

Re: Appeal of Title V Permit Issued by Utah Division of Air Quality to Stericycle Inc., Permit No. 1100055002, issued on February 19, 2009

Dear Ms. Rushin:

On March 16, 2009, two groups, *Concerned Salt Lake City Area Residents Against the Stericycle Incinerator* and *Greenaction for Health and Environmental Justice* (collectively "Petitioners") submitted a document to you entitled, "Appeal of Title V Permit Issued by Utah Division of Air Quality to Stericycle, Inc.," petitioning EPA Region 8 to object to a Title V permit pursuant to Section 505(b)(2) of the Clean Air Act ("CAA" or the "Act"). 42 U.S.C. § 7661d(b)(2). The petition is directed at the Utah Division of Air Quality's ("DAQ") February 19, 2009, renewal of Title V Operating Permit No. 1100055002 ("the permit") to Stericycle, which operates a facility located in North Salt Lake, Utah. We have been asked by Stericycle to review the petition and provide you with our view as to the merits of the Petitioners' claims. After a careful review of the documents they submitted, we have concluded that an objection is not warranted in this case under the terms of the Act. We are providing our analysis in this letter and we request that you consider it as you prepare EPA's response. Our letter supplements the responses already provided by the DAQ in its response to comments on the final permit and also responds to those issues that the petition raises but were not raised during the public comment period.

While Petitioners may believe they have provided support for an EPA objection to the permit, none of the claims in the petition or the comments filed on the draft permit would warrant objection by EPA under the Act, under Utah's approved part 70 program, or under EPA's part 70 regulations. In fact, the Utah DAQ responded accurately and adequately to all of the comments Petitioners raised during the public comment period, indicating that renewal of the permit is appropriate. Two of the issues raised by Petitioners – the treatment of carbon dioxide ("CO_2") and the requirements periods of startup, shutdown, and malfunction ("SSM") – were not raised during the public comment period and therefore are not properly before EPA for consideration. However, even if these issues were properly before the Agency, they would not warrant EPA objection to the permit. Provide below is (1) a brief procedural background, (2) an explanation of why EPA should deny the objections based on CO_2 and SSM periods in that there are no applicable requirements for CO_2

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Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
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and the permit correctly records the regulatory requirements as they apply to SSM periods, and (3) correction of certain errors in the petition.[1] We hope EPA will consider these factors in its decision and request that this response be included in the record of the permit decision.

- *DAQ's Public Participation Process Exceeded the Requirements of the Act.*

The public participation process for the permit was extensive and exceeded the requirements of the federal and state regulations. Following Stericycle's submittal of a timely permit renewal application in November 2006, the DAQ issued a draft permit for public comment on July 17, 2008. Although a public hearing was already scheduled for September 2nd, the DAQ accommodated a request to schedule the hearing on a different date more convenient for members of the public to attend (presumably due to the Labor Day holiday), and scheduled a hearing for October 9, 2008. The DAQ then held the public comment period open for a total of 89 days until October 13, 2008. Petitioners spoke at the hearing and filed written comments on the draft permit. The DAQ prepared the required permitting documents, including a response to public comments, and forwarded the proposed permit to EPA. EPA did not object to issuance within the 45-day review period, and DAQ issued the renewal permit on February 19, 2009. The response to comments and the final permit are available to the public on DAQ's website. On March 16, 2009, Petitioners submitted a petition to object to the Title V permit to EPA through Region 8, which was X days after the expiration of the EPA 45-day review period.

- *There Are No Applicable Requirements Regulating CO_2 Emissions at Stericycle's Facility, and Title V, as a Procedural Program for Recording Applicable Requirements, Does Not Permit DAQ to Impose New Substantive Requirements on the Facility.*

Petitioners first claim of error in the permit is that it did not analyze CO_2 emissions prior to the issuance of the permit, relying on a misreading of the Environmental Appeals Board decision in *Deseret Power Electric Cooperative,* PSD Appeal No. 07-03 (EAB Nov. 13, 2008). Petitioners mistakenly believe that the *Deseret* decision (1) applies to Title V permits and (2) requires an analysis of CO_2 emissions in permits issued by DAQ.

As you know, at issue in *Deseret* was a claim by Sierra Club that Region 8 violated the *prevention of significant deterioration ("PSD") pre-construction permit* requirements under CAA §§ 165(a)(4) and 169(3) by failing to apply BACT, or best available control technology, to limit CO_2 emissions from a proposed new waste-coal-fired electric generating unit. The PSD program is a CAA *substantive* program that creates new emission limits when new plants are built or existing plants undertake major modifications. The CAA PSD provisions require *a PSD permit* to include BACT for any pollutant "subject to regulation" under the CAA. 42 U.S.C. § 7475(a)(4). Title V permits then include the permit terms in any PSD permit for the source as *applicable requirements.*[2] Because Stericycle's construction permits (i.e., minor New Source

[1] Correcting certain errors in the petition is not an admission of the factual accuracy or legal validity of any claims in the permit. Because Petitioners appear to be operating under a misapprehension of the facts, we thought it would be helpful to correct certain aspects of the petition so that EPA may conduct a thorough review.

[2] Rule 307-415-3 defines the applicable requirements that must be included in a Title V permit, and it does not include any requirement for analyzing CO_2 emissions. "Applicable requirements" include those that have been promulgated by EPA or the State "at the time of permit issuance." UAC Rule 307-415-3.

Review ("NSR"), PSD, or nonattainment NSR permits) do not regulate CO_2, and because there are no other applicable requirements for CO_2 in applicable requirements, Petitioners' objection cannot be granted.

The Sierra Club's claim in *Deseret* was that the statutory language required CO_2 to be treated as an air pollutant "subject to regulation" under the CAA for purposes of PSD applicability and BACT controls. The EAB rejected Sierra Club's claim that CO_2 was required by the statute to be regulated under PSD, but also found there was insufficient evidence in the record of EPA's "historica[l]" interpretation of whether CO_2 is subject to regulation for PSD purposes. Thus, the EAB remanded the PSD permit to determine whether CO_2 is subject to regulation under the PSD program.

Since the issuance of the *Deseret* permit, however, EPA has made clear that Region 8's findings that CO_2 is not currently regulated under the CAA was correct. EPA has stated that "[s]ince there is currently no [national ambient air quality standard] for GHGs and GHGs are *not otherwise subject to regulation under the CAA*, the PSD program is not currently applicable to GHGs." 73 Fed. Reg. 44,354, 44,497/3 (July 30, 2008) (emphasis added). Indeed, in response to EAB's recommendation in *Deseret* for EPA to issue a national determination with respect to this issue, the EPA Administrator issued a memorandum confirming Region 8's conclusion that CO_2 is not currently regulated under the CAA in December of 2008.[3] While this memorandum is being reconsidered by the new Administrator, it has not been withdrawn and remains in effect. *See* Jackson Letter to Sierra Club, Feb. 17, 2009.

In sum, *Deseret* does not support Petitioners' claim that CO_2 must be addressed by DAQ before it issues Stericycle's Title V permit for two reasons:

(1) the *Deseret* decision applies to PSD permitting and Stericycle is not applying for a PSD permit;

(2) the *Deseret* decision did not conclude that CO_2 was subject to PSD permitting in any event and EPA subsequently found that CO_2 is not subject to PSD until EPA actually regulates CO_2 in a national rule.[4]

Because *Deseret* is simply inapplicable, the only basis for addressing CO_2 in this Title V permit proceeding would be if there was otherwise an applicable requirement for CO_2 for this facility. None of Stericycle's permits or the regulations applicable to it regulate CO_2. Indeed, EPA recently "there are generally not any applicable requirements for control of GHGs that would be included in Title V permits." 73 Fed. Reg. at 44,510/2. And, relevant to facilities like

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[3] *See* Johnson Mem. to Regional Administrators, *EPA's Interpretation of Regulations that Determine Pollutants Covered By Federal Prevention of Significant Deterioration (PSD) Permit Program*, Dec. 18, 2008, *available at* http://www.epa.gov/region07/programs/artd/air/nsr/nsrmemos/co2_psd.pdf. We incorporate the December 18, 2008 memorandum and its analysis by reference in these comments.

[4] Even if such determination is subsequently made, unless and until EPA or the State issues regulations imposing emissions limitations with respect to CO_2, there remain no applicable requirements that must be included in Stericycle's Title V permit. The mere fact that EPA may regulate CO_2 does not impose any substantive requirement on DAQ with respect to Stericycle's Title V permit.

Stericycle's, EPA acknowledged that GHG emissions are not currently regulated under Section 129. *Id.* at 44,495/3-44,497/2. The hospital, medical and infections waste incinerator ("HMIWI") standards applicable to Stericycle's facility do not include emission limitations for CO_2.[5] Thus, there is no basis for concluding that there is any applicable requirement or that an analysis is required for CO_2 at this facility.

In light of the lack of an applicable requirement for CO_2 as discussed above, Title V as a procedural program limits the State's authority in this case. DAQ appropriately analyzed the applicable requirements as defined in its rules and included them in the permit. Therefore, the petition to object to the Stericycle permit based on CO_2 emissions should be denied.

- *Petitioners Failure to Raise the CO_2 Issue During the Public Comment Period on the Draft Permit Precludes an EPA Objection.*

While the suggestion that CO_2 is required to be analyzed by the DAQ before issuing a Title V permit is incorrect, Petitioners are barred procedurally from raising this claim in any event because it was not raised during the public comment period.

Utah's Title V rules, based on the CAA and EPA regulations, provide that members of the public may petition EPA to object to a state-issued Title V permit. UAC Rule 307-415-8(4). However, the issues raised in such a petition may be "based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the permitting agency (unless the petitioner demonstrates in the petition to the Administrator that it was impracticable to raise such objections within such period or unless the grounds for such objection arose after such period)." 42 U.S.C. § 7661d(b)(2) (emphasis added). *See also* 40 C.F.R. § 70.8(d) (cited in UAC Rule 307-415-8(4)).

In reviewing the comments filed by the Petitioners on the draft permit, there is no mention of CO_2 emissions or any requirement for DAQ to analyze such emissions. Petitioners also do not explain why it was not practicable to raise their concern regarding CO_2 emissions earlier and they have not and cannot show that it was impracticable to raise their objection during the public comment period. While the petition references an EAB decision issued after the final permit was granted, this is insufficient to show that the underlying issue in that case could not have been raised during the 89-day public comment period on the draft permit.

In an analogous situation, the EAB rejected a request to rely on a Supreme Court decision rendered after the close of the relevant public comment period to raise an objection to a PSD

[5] As the EAB has found, "[EPA] must operate within the framework of the applicable law and regulations." *In re Christian County Generation, LLC*, PSD Appeal No. 07-01, at 18 (EAB Jan. 28, 2008). *See also Aaacon Auto Transport, Inc. v. ICC*, 792 F.2d 1156, 1161 (D.C. Cir. 1986) ("[I]n general, agencies must apply the law in effect at the time the decision is made, even when that law has changed during the course of a proceeding."); *In re Dominion Energy Brayton Point, LLC*, 12 E.A.D. 490, 611-617, 2006 WL 3361084 (EAB Feb. 1, 2006); *In the Matter of Kerr-McGee Nuclear Corp. Church Rock Facility*, 1980 WL 26834, n.a (EAB May 15, 1980). Since there was no requirement with respect to CO_2 applicable to the Stericycle facility at the time the final permit was issued (nor currently), DAQ may not impose substantive requirements with respect to CO_2. Therefore, it had no obligation to consider such emissions in reviewing Stericycle's Title V permit renewal application.

permit based on an argument that CO_2 was regulated by the CAA and required inclusion in the PSD permit. *In re Christian County Generation, LLC*, PSD Appeal No- 07-01, at 4.[6] In that case, the EAB found the issues raised "were reasonably ascertainable or reasonably available within the public comment period" and, thus, should have been raised in public comments. *Id.* at 12-13 (citing 40 C.F.R. § 124.13).

At least since April 2007, parties have raised challenges to several CAA permits on the grounds that the permit must consider CO_2. Petitioners here, who themselves were aware of regulation of CO_2 as an issue in permit proceedings as early as 2006,[7] were clearly able to raise their concerns in 2008 during the public comment period on this permit. For this reason as well, the petition to object based on CO_2 emissions should be denied.

- *The Permit Appropriately Addresses Startup, Shutdown, and Malfunction Requirements as Reflected in the Applicable Requirements for This Facility.*

Petitioners second claim is that DAQ's permit evaluation failed to consider the U.S. Court of Appeals decision in *Sierra Club v. EPA*, No. 02-1135, 551 F.3d 1019 (D.C. Cir. 2008), which addressed the so-called SSM exemption under the General Provisions for Section 112 national emission standards for hazardous air pollutants ("NESHAPs").[8] Petitioners claim that this decision means the permit renewal process must be reopened. This claim is incorrect for the following reasons:

(1) the Court of Appeals decision is not yet final and is currently subject to a petition for rehearing and potential further appeal to the Supreme Court.

(2) the Court of Appeals decision does not apply to standards under CAA Sections 111 and 129, which are the relevant standards here.

While the *Sierra Club* decision was initially issued in December 2008, the decision only becomes effective when the Court issues its mandate. The mandate only issues after the time has expired for parties to file petitions for rehearing and, if filed, such petitions have been denied. Here, petitions for rehearing were due on April 3, 2009, and two such petitions were filed. At this time, the Court is awaiting responses from the other parties in the case and only after that

[6] CO_2 is a greenhouse gas ("GHG"), the emissions of which are considered to contribute to climate change. In April of 2007, the Supreme Court rejected EPA's claim that CO_2 and other GHGs could not be regulated under the CAA. *Massachusetts v. EPA*, 549 U.S. 497 (2007).

[7] Another case before the EAB, which was filed August 14, 2008, involves similar claims raised in *Deseret* regarding regulation of CO_2 under the CAA with respect to a PSD permit issued for a power plant facility on Navajo land in New Mexico referred to as the Desert Rock plant. *In re Desert Rock Energy Company, LLC*, Appeal No.(s) PSD 08-03; PSD 08-04; PSD 08-05; PSD 08-06 (EAB filed Aug. 14, 2008). According to Greenaction's website, http://www.greenaction.org/index.shtml (last visited Apr. 20, 2009), that organization joined the fight against the Desert Rock power plant, which has been ongoing since at least 2006.

[8] In 1994, EPA promulgated these "General Provisions" to eliminate duplication of requirements in each subsequent source category-specific NESHAP issued pursuant to Section 112 of the CAA. 58 Fed. Reg. 42,760, 42,760/3 (Aug. 11, 1993); 59 Fed. Reg. 12,408 (Mar. 16, 1994). These General Provisions are generally incorporated into the source category-specific NESHAP, but may be overridden by the specific standards.

will it determine if rehearing should be granted. Even if the petitions are denied, the parties retain the ability to appeal the decision to the Supreme Court, which may again stay the mandate in the case. Accordingly, the final disposition of EPA's SSM exemption under Section 112 is not yet determined.

In addition to the lack of finality of the decision, the *Sierra Club* case would not be applicable to the standards required to be included in the Stericycle permit. The applicable requirements for the Stericycle facility are performance standards required by Sections 111 and 129 of the CAA. 42 U.S.C. § 7429 (incorporating 42 U.S.C. § 7411 by reference). Stericycle's Title V permit includes the applicable requirements for SSM periods under these provisions and, thus, meets the requirements of the CAA.

The applicable requirements for the Stericycle facility are those issued under Sections 111 and 129, not Section 112. In 1990, Congress amended the CAA to include specific provisions for regulation of waste incineration units, enacting Section 129. 62 Fed. Reg. 48,348, 48,350/3 (Sept. 15, 1997). Section 129 of the CAA directs EPA to promulgate "performance standards" pursuant to that Section and Section 111, New Source Performance Standards ("NSPS"), for various categories of solid waste incinerators, including HMIWI. 42 U.S.C. § 7429. EPA defines HMIWI as "any device that combusts *any amount* of hospital waste and/or medical/infectious waste." 40 C.F.R. § 60.51c (emphasis added).

The *Sierra Club* decision, however, is based on an analysis of Section 112 requirements, not requirements under Sections 111 and 129.[9] The provisions at issue in *Sierra Club* provided that the emissions limitations promulgated under Section 112(d) applied at all times, except during SSM. 40 C.F.R. § 63.6(f)(1), (h)(1). This was referred to as the "SSM exemption." Rather, a general duty emission standard, requiring sources to use good air pollution control practices in operating their plants to minimize emissions, applied during SSM periods, unless otherwise provided in a specific source-category NESHAP. 59 Fed. Reg. at 12,439-12,440 (40 C.F.R. § 63.6(e)(1)(i), (f)(1), (h)(1)). In a 2-1 decision, the D.C. Circuit held that the general duty standard was not a "[S]ection 112-compliant" standard because it did not comply with the requirements of Section 112(d) or 112(h). 551 F.3d at 1027-28.

The *Sierra Club* decision does not change the applicable requirements for SSM periods applicable to HMIWI, which are Section 129/111 standards.[10] EPA promulgated the applicable requirements at issue here, performance standards for new and existing HMIWI, in 1997. 62 Fed. Reg. 48,348. These standards apply to units that incinerate more than 10 percent hospital waste and/or medical/infectious waste. 40 C.F.R. §§ 60.50c, 60.51c.

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[9] Petitioners request is not appropriately made in a petition requesting EPA to object to the permit. 40 C.F.R. § 70.8(d).

[10] Challenges to the SSM provisions in the HMIWI rule are barred by Section 307(b) of the CAA, 42 U.S.C. § 7607(b), which requires such petition within 60 days of promulgation of the requirement. That deadline passed in 1997 and EPA has not reopened the SSM provisions in that rule since that time.

The HMIWI standards include emission limits for 9 substances on incinerator operations.[11] UAC Rule 307-222-1(1). These emission limits "apply at all times except during periods of startup, shutdown, or malfunction, provided that no hospital waste or medical/infectious waste is charged to the affected facility during startup, shutdown, or malfunction." 40 C.F.R. § 60.56c.[12]

In the NSPS program and in the HMIWI regulations specifically, EPA has provided that the emissions limitation established for the facility's operations do not apply to SSM periods, outlining various actions that a facility must take during these periods to ensure it minimizes emissions during those times. In 1972, in considering the NSPS program under Section 111, EPA determined that sources are likely to have excess emissions during periods of SSM that "despite the best efforts to control and minimize the emission, lead to temporary violations of the standard." 37 Fed. Reg. 17,214, 17,214/3 (Aug. 25, 1972). EPA proposed to address these potential violations through regulation. In 1973, EPA promulgated "general" provisions for the NSPS program that excluded periods of SSM from the emissions limitations applied at all other times during operations of the facility. 38 Fed. Reg. 10,820 (May 2, 1973); 38 Fed. Reg. 28,564 (Oct. 15, 1973). EPA also required compliance testing to be conducted during conditions based on performance of representative operations, which did not include SSM periods. 42 Fed. Reg. 57,125 (Nov. 1, 1977); 40 C.F.R. § 60.8(c). These general provisions further required that "[a]t all times, *including periods of startup, shutdown, and malfunction,* owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions." 40 C.F.R. § 60.11(d).

The 1997 HMIWI performance standards similarly include SSM provisions that exclude SSM periods from the emission limits applied during "normal" operations. 40 C.F.R. § 60.56c(a). These requirements are incorporated into Utah's State Plan and State Rule regarding HMIWIs.[13] The Title V permit includes these applicable requirements regarding SSM

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[11] Utah has implemented these requirements through the State Plan for HMIWIs (incorporated by reference at UAC Rule 307-220-3) and the State Rule for HMIWIs (UAC Rule 307-222). UAC Rule 307-210-1 incorporates by reference the general NSPS provisions under Part 60, subpart A, and the State Plan, UAC Rule 307-222-2 and Rule 307-222-4 largely incorporate by reference the requirements set forth in EPA's 1997 HMIWI rule. As such, references with respect to the applicable performance standards generally will be to the federal regulations.

[12] "Startup means the period of time between the activation of the system and the first charge to the unit." 40 C.F.R. § 60.51c. "Shutdown means the period of time after all waste has been combusted in the primary chamber." *Id.* Startup and shutdown are expressly excluded from the definition of "operation." *Id.* "Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner." *Id.* Malfunction does not include "[f]ailures that are caused, in part, by poor maintenance or careless operation." *Id.* "During periods of malfunction the operator shall operate within established parameters as much as possible, and monitoring of all applicable operating parameters shall continue until all waste has been combusted or until the malfunction ceases, whichever comes first." *Id.*

[13] UAC Rule 307-222-4; UAC Rule 307-210-1 (incorporating plan by reference). Petitioners erroneously attempt to equate periods of SSM to "bypass" emissions that are violations of the standard. Petition at 17-19. A "bypass stack" is a device used for discharging combustion gases to avoid severe damage to the air pollution control device or other equipment. 40 C.F.R. § 60.51c. Use of the bypass stack is prohibited, *except during periods of SSM.* 40 C.F.R. § 60.56c(e)(5), (f)(6), (g)(5). Stericycle nonetheless must record and report use of the bypass stacks during a malfunction. Permit No. 1100055002, §§ II.B.3.c.3(a), at 26-27. Petitioners also mistakenly claim that "actual"

periods for HMIWI. *See* Permit No. 1100055002, §§ II.B.3.b, II.B.3.c(f), at 17-18. Therefore, it meets the CAA's requirements.[14]

Moreover, neither EPA nor DAQ has changed the SSM regulations that are applicable to Stericycle's Title V permit in response to this decision, and the Title V process cannot impose new substantive requirements. *See Ohio Pub. Interest Research Group, Inc. v. Whitman*, 386 F.3d 792, 794 (6th Cir. 2004) ("Title V does not impose new obligations; rather, it consolidates pre-existing requirements into a single, comprehensive document for each source, which requires monitoring, record-keeping, and reporting of the source's compliance with the Act.") (citing 42 U.S.C. § 7661c(a), (c); 40 C.F.R. § 70.6(a)(3), (c)(1))).

Accordingly, reopening of the permit process is unwarranted, and there are no grounds for objecting to the permit.[15]

- *Petitioners Failure to Raise the SSM Issue During the Public Comment Period on the Draft Permit Precludes an EPA Objection.*

As discussed above, Petitioners may only raise objections to the permit that were raised with reasonable specificity during the public comment period. 40 C.F.R. § 70.8(d). While Petitioners submitted comments on the draft Title V permit, Petitioners did not raise issues regarding the validity of the SSM provisions.[16] To raise objections not raised during the public comment period, Petitioners must demonstrate that it was impracticable to raise such objections within such period or that the grounds for such objection arose after such period. *Id.*

The challenge to the SSM provision at issue in the cited D.C. Circuit case was first raised in 2003, and oral argument in the case was held in September of 2008, during the public comment period on Stericycle's Title V permit. Petitioners should have been aware of the issue at that time and have not provided a basis for failing to raise it during the comment period. In

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emissions include emissions during startup and shutdown because "normal source operations include start up and shut down." Petition at 15-16. However, "operation" is defined as "the period during which waste is combusted in the incinerator *excluding periods of startup or shutdown.*" 40 C.F.R. § 60.51c (emphasis added). Again, Stericycle's Title V permit is consistent with the requirements for SSM emissions, and Stericycle has operated in compliance with those requirements.

[14] Even if the standard did not expressly include SSM provisions, EPA has the authority to allow permits to include exemptions for "upsets," recognizing that a standard cannot be applied 100 percent of the time. *See Marathon Oil Co. v. EPA*, 564 F.2d 1253, 1272-73 (9th Cir. 1977) (requiring EPA to insert upset provisions into permits issued under Clean Water Act that required compliance with "achievable" emissions limits).

[15] The D.C. Circuit's rationale in *Sierra Club* does not dictate that EPA must reconsider its treatment of SSM in the NSPS program, which includes performance standards issued under Section 129. As the dissent pointed out, the D.C. Circuit's ruling was based on an argument not briefed by the parties. EPA's long-standing practice under the NSPS program is to allow for SSM exemptions, and because Congress was aware of this practice, it was authorized by the enactment of Section 129. "Congress is presumed to be aware of established practices and authoritative interpretations of the coordinate branches." *United States v. Wilson*, 290 F.3d 347, 357 (D.C. Cir. 2002) (citations omitted).

[16] Petitioners only disputed that emissions during SSM were underreported. As noted above, these claims are meritless. *See supra* n.14.

any event, the applicable requirements do not require compliance with the emission limits during SSM period and these applicable requirements are unaffected by the *Sierra Club* decision.

The petition to object to the permit on the basis of the SSM provisions should be denied.

- *Claims that DAQ Did Not Adequately Respond to Comments Should Be Rejected.*

Petitioners take issue with DAQ's response to comments document, claiming that DAQ allegedly did not respond to comments raised during the comment period. These claims should be rejected by EPA because DAQ did adequately respond to the comments and because DAQ is not required to respond to comments that are irrelevant to the Title V permitting process.

First, Petitioners provide no explanation or little to no support for their claims that DAQ's responses to public comments were inadequate. To seek review of a Title V permit, the EAB has required a petitioner to "clearly and specifically identify the basis for its objection(s) to the permit, and explain why, in light of the permit issuer's rationale, the permit is clearly erroneous or otherwise deserving of review." *Peabody Western Coal Company*, 12 E.A.D. 22, 33, 2005 WL 428833 (EAB Feb. 18, 2005) (citation omitted). "In order to carry this burden the petitioner must address the permit issuer's responses to relevant comments made during the process of permit development; the petitioner may not simply reiterate comments made during the public comment period, but must substantively confront the permit issuer's subsequent explanations." *Id.* (citations omitted). Here, the petition just reiterates the comments and fails to substantively explain why the DAQ's responses are incorrect. Mere conclusory statements that DAQ is incorrect are insufficient and should not be accepted by EPA.

Second, to the extent DAQ has a duty to respond to comments, it only has a duty to respond to significant comments raised and only to make those comments available to the public. UAC Rule 307-415-7i. *See Home Box Office, Inc. v. F.C.C.*, 567 F.2d 9, 35-36 (D.C. Cir. 1977) (finding "the opportunity to comment is meaningless unless the agency responds to significant points raised by the public") (citations omitted).

> In determining what points are significant, the "arbitrary and capricious" standard of review must be kept in mind. Thus only comments which, if true, raise points relevant to the agency's decision and which, if adopted, would require a change in an agency's proposed rule cast doubt on the reasonableness of a position taken by the agency. Moreover, comments which themselves are purely speculative and do not disclose the factual or policy basis on which they rest require no response. There must be some basis for thinking a position taken in opposition to the agency is true.

Id. at 35 n.58 (citation omitted). The petition cites to numerous comments that do not rise to the level of significance to require more response from DAQ.

As just one example, the petition references various comments related to the new residences near the incinerator. As noted by DAQ, the zoning of residences near the incinerator is outside the scope of and unrelated to Title V permit requirements and the CAA in general. Public health is important in the CAA, but it is addressed by incorporating health considerations

into the setting of the applicable emission limits. EPA set the emission limits in a national regulation, and as noted above, the Title V permit incorporates the applicable regulations.

The petition also references comments that assert some fault on the part of DAQ in referring to incinerator as a medical waste incinerator. As noted by DAQ, this reference is correct under the definition in the HMIWI, and this comment required no additional response. Moreover, Petitioners do not indicate that their concern with the reference would change the applicable requirements. The only basis for EPA to object to the permit is if it does not comply with the CAA – *i.e.*, if it does not incorporate the applicable requirements. Since the objection raised here is irrelevant to the applicable requirements, it cannot give rise to an EPA objection.

As another example, the petition asserts that the response to comments was inadequate because "DAQ violated the EPA rule of 1994 in regards to Start-up, Shutdown, and Malfunction plan," citing to the *Sierra Club* case. Petition at 17-18. As noted above, the 1994 regulations at issue in *Sierra Club*, which is not yet final, relate to NESHAP requirements under Section 112 of the CAA and are found in 40 C.F.R., Part 63.[17] The SSM plan requirements in those provisions are not applicable to standards promulgated pursuant to Section 111 and Section 129 of the Act. There was simply no cause, therefore, for DAQ to discuss these provisions at all. As such, the response to comments is more than adequate and does not warrant objection by EPA.[18]

* * * * *

We hope the information in this letter is helpful to you and please do not hesitate to contact me at 510-985-1710 with any questions.

Sincerely,

Shannon S. Broome

cc: Callie Videtich, EPA Region 8
Cheryl Heying, DAQ
Harold Burge, DAQ
Cindy Beem, DAQ
Robert Grandy, DAQ
Selin Hoboy, Stericycle
Steven McOmber, Stericycle

[17] In fact, these planning requirements are only applicable to specific NESHAPs by incorporation into those specific standards. In any event, contrary to the statements in the petition, the 1994 regulations have been amended, and neither the 1994 regulations or the current regulations require approval of the SSM plans or require making the plans "unconditionally" available. *See* 59 Fed. Reg. at 12,439/3 (40 C.F.R. § 63.6(e)(3)(v)); *id.* at 12,459/3 (40 C.F.R. § 63.15(a)); 40 C.F.R. §§ 63.6(e)(3)(v), 63.15(a) (2008).

[18] I asked the facility about Petitioners' concerns over 2007 report submittals and learned that upon discovery, the facility promptly submitted the reports, which showed compliance with the permit's emission limits. The facility also submitted subsequent reports in a timely manner, such that DAQ appropriately concluded the facility is able to comply with the permit.

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UTAH DEPARTMENT OF
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MAR - 2 2009
DIVISION OF AIR QUALITY

DAQ-0801024-09

State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

Department of
Environmental Quality

William J. Sinclair
Acting Executive Director

DIVISION OF AIR QUALITY
Cheryl Heying
Director

10142

DAQO-OP0101420004-09

February 19, 2009

CERTIFIED MAIL

Mr. Rick Groves
90 North 1100 West
North Salt Lake UT 84054

Dear Mr. Groves

Re: Operating Permit Application for Stericycle Incorporated, North Salt Lake.

The application for an Operating Permit for the above site was received on November 1, 2006. The application was classified as a Title V renewal application, in accordance with R307-415-7c.

Please review the enclosed copy of the permit thoroughly to assure that you and all affected staff members at your organization are aware of its requirements. If you have any questions regarding this permit, please contact me at (801) 536-4024 or by e-mail at rgrandy@utah.gov.

Sincerely,

Robert Grandy

Robert Grandy
Environmental Engineer
Operating Permit Section

cc:
Mr. Steve McOmber
90 North 1100 West
North Salt Lake UT 84054

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DAQO-OP0101420004-09

February 19, 2009

CERTIFIED MAIL

Mr. Mike Owens
US EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

Dear Mr. Owens:

Re: Operating Permit #1100055002 for Stericycle Incorporated, North Salt Lake.

The Division of Air Quality received an application for Operating Permit #1100055002 for Stericycle Incorporated, North Salt Lake, on November 1, 2006 (application #OPP0101420004). The action was classified as Title V renewal application, in accordance with R307-415-7c. The purpose of the application is as follows:

1. Renewal of the permit.

2. To make corrections to Table 3 of condition II.B.3.c.1(B)(a)(2). The minimum scrubber liquor flow rate, has been changed from lbs/hr to gallons/minute (3-HRA).

The Utah Division of Air Quality hereby submits the final Title V Operating Permit in accordance with Utah Administrative Code (UAC) R307 415 8(1)(a). If you have any questions regarding this permit, please contact me at (801) 536-4024or by e-mail at rgrandy@utah.gov.

Sincerely,

Robert Grandy

Robert Grandy
Environmental Engineer
Operating Permits Section

Final Permit Review Checklist

This checklist is to be used to review all final operating permits prior to signing.
The completed checklist is to be submitted to the Operating Permit section manager.

Source name: Stericycle Incorporated: BFI Medical Waste Incinerator **Permit ID**: 1100055002

OPP0101420004

1. Cover page only is on letterhead paper
2. Permit ID is valid (not missing, not "1", ends in "00x" where "x" is the revision number)
3. Permit date and revision date (if applicable) are correct **Issue / revision date:** 2/19/09
4. Source name, address and SIC are correct
5. Abstract includes brief description of process and states why the source is subject to Part 70 (NSPS equipment, pollutants for which the source is major, etc.)
6. Operating permit history shows correct action, date and description of action
7. Table of contents is accurate
8. Permit footer information matches cover page
9. Permit renewal date is correct **Renewal Date:** 2/19/14
10. Annual compliance certification date is correct **First certification due date:** 5/2
11. Definition of "prompt" for deviation reporting is correct **Prompt means** 7 days
12. All required emission units are included, and grandfathered units identified
13. Permit text is complete and legible, and superscripts/subscripts are correct
14. List of supporting approval orders and documents is included and is complete and accurate
15. If title IV applies, acid rain portion of permit is included
16. Reviewer comments are included as required to show basis for monitoring, etc.
17. Permit has been spell-checked and read for grammatical errors
18. OPP peer review completed
19. NSR review completed (N/A if no NSR review needed)
20. Compliance review completed
21. Draft Permit was sent to public comment (y / n) Public review start date: 1/17/08
22. Proposed Permit submitted for EPA review (y / n) EPA review start date: 12-2/08
23. Other comments on this permit:

This permit has been prepared in accordance with current administrative requirements as provided in R307-415 and with current OPP policy and guidance.

Permit writer signature: Robert J. Date: 2/17/09

Section manager signature: David P. Beatty Date: 2/18/09

RDO 2/19/09